

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
vs.)	CRIMINAL ACTION
)	NO. 04-1788-CBS
STEPHEN BRUM,)	
Defendant,)	
_____)	

MEMORANDUM OF PROBABLE CAUSE AND ORDER ON THE
GOVERNMENT'S MOTION FOR DETENTION
July 15, 2004

SWARTWOOD, M.J.

I. Nature of the Offense and the Government's Motion

On June 22, 2004, a Criminal Complaint was filed, charging Stephen Brum ("Mr. Brum"), with being a felon in possession of ammunition, in violation of 18 U.S.C. §922(g)(1).

At Mr. Brum's initial appearance on June 28, 2004, in connection with this Complaint, he was advised of his right to a preliminary examination in accordance with Fed. R. Crim. P. 5.1 and the Government moved for a detention hearing in accordance with 18 U.S.C. §§ 3142(f)(1)(A) (Mr. Brum is charged with a crime of violence), (f)(1)(B) (if convicted of this offense, Mr. Brum faces a potential life sentence), (f)(1)(D) (Mr. Brum is charged with a felony and has been convicted of two or more offenses described in paragraphs (A) through (C) of Section 3142(f)(1), or two or more state or local offenses that would have been offenses described

in paragraphs (A) through (C) of such section if federal jurisdiction had existed), and (f) (2) (A) (risk of flight).

On June 30, 2004, a consolidated probable cause/detention hearing was held and at that hearing, Sheila M. O'Hara, Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, testified on behalf of the Government and was cross-examined by Mr. Brum's counsel. Following the completion of this hearing, I made a finding of probable cause and Mr. Brum assented to an Order of Detention, but reserved his right to a detention hearing in the future.

II. Findings of Fact

1. On February 8, 2004, detectives from the New Bedford Police Department executed a search warrant at 11 Nye Street, New Bedford, Massachusetts. Prior to conducting the search, detectives saw Mr. Brum exit 11 Nye Street. Mr. Brum was stopped by those detectives after he entered an automobile driven by another individual. This other individual attempted to reach for a knife and as a result, Mr. Brum was searched and found to possess a Smith and Wesson 9mm semi-automatic pistol, loaded with seven rounds of 9mm ammunition. Govt. Ex. 1.

2. On April 21, 1994, Mr. Brum received a one year sentence in the New Bedford District Court for three counts of assault and battery with a dangerous weapon. On August 25, 1994, Mr. Brum received, in the Barnstable Superior Court, a nine to ten years split sentence with five years to be served, for breaking and

entering in the day time with intent to commit a felony and a three to five year sentence for larceny from a building. Id.

3. The ammunition retrieved from the Smith and Wesson pistol seized from Mr. Brum was not manufactured in the Commonwealth of Massachusetts and therefore, traveled in interstate commerce. Id.

III. Probable Cause

I find that on February 8, 2004, Mr. Brum, having previously been convicted of a state crime which would be a felony under federal law, possessed ammunition which had traveled in interstate commerce. Therefore, I find probable cause for the offense charged against Mr. Brum in this Complaint.

IV. Order of Detention Pending Trial

In accordance with the foregoing memorandum,
IT IS ORDERED:

1. That Mr. Brum be committed to the custody of the Attorney General or his designated representative, for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

2. That Mr. Brum be afforded a reasonable opportunity for private consultation with counsel; and

3. On order of a court of the United States or on request by an attorney for the Government, the person in charge of the corrections facility in which Mr. Brum is detained and confined shall deliver Mr. Brum to an authorized Deputy United States

Marshal for the purpose of any appearance in connection with a court proceeding.

RIGHT OF APPEAL

THE PERSON OR PERSONS DETAINED BY THIS ORDER MAY FILE A MOTION FOR REVOCATION OR AMENDMENT OF THE ORDER PURSUANT TO 18 U.S.C. § 3145 (b) .

/S/CHARLES B. SWARTWOOD, III
CHARLES B. SWARTWOOD, III
MAGISTRATE JUDGE